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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/010,150

11/16/2001

David L. Brock

8491,0009

9975

21005

7590

06/01/2004

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EXAMINER

PHILOGENE, PEDRO

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 06/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/010,150

Applicant(s)

BROCK ET AL.

Examiner

Pedro Philogene

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37-58 is/are allowed.
- 6) ☒ Claim(s) 59-71 and 1036 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/20/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 8/20/03 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-36, 59-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel et al (5,860,992) in view of Mizuno et al. (5,876,325).

With respect to claims 1, 12, 59, Daniel et al disclose a system for repairing a cardiac valve comprising a shaft extending from a site outside a patient to an area about the cardiac valve; as best seen in FIG. 9A; a shaft supporting at its distal end a remotely controlled tool for performing a cardiac repair procedure a retainer, as set forth in column 3, lines 30-50, at the area of the cardiac valve, the retainer being attached to an annulus of the cardiac valve; and being closeable via the tool to draw the annulus to a smaller diameter.

It is noted that Daniel et al did not teach of a flexible guide shaft and a flexible inner shaft and a remote manipulator controlled from a site remote from the body for controlling the tool, as claimed by applicant. However, Mizuno et al evidence the use of a device for surgical manipulation system with a flexible guide shaft and a flexible inner shaft with end effector and a manipulator controlled from a site remote from the body for controlling the tool for performing a desired operation.

Therefore, given the teaching of Mizuno et al., it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Daniel et al, as taught by Mizuno et al to provide that could perform any desired operation.

With respect to claims 2-11, 13-16, 60-71, the above combination of references teaches all the limitations; as set forth in column3, lines 30-50 and as best seen in FIG.9A-B of Daniel et al; and, as set forth in column 3, lines 50-67, column 4, lines 1-67, column 5, lines 1-25, ad as best seen in the figures of Mizuno et al.

With respect to claims 17-36, the method steps, as set forth, would have been obviously carried out in the operation of the device, as set forth above.

Allowable Subject Matter

Claims 37-58 are allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Matsui et al teach the use of a balloon.

4,702,250	10-1987	Ovil et al.
5,674,279	10-1997	Wright et al.
6,269,819	08-2001	Oz et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pedro Philogene whose telephone number is (703) 308-2252. The examiner can normally be reached on Monday to Friday 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P Shaver can be reached on (703) 308-2582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pedro Philogene
May 25, 2004


PEDRO PHILOGENE
PRIMARY EXAMINER